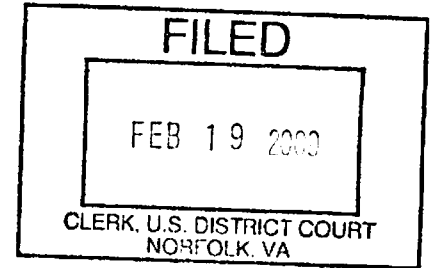


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Newport News Division



ROBERT SWITZER,

Plaintiff,

v.

ACTION NO. 4:08cv25

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

FINAL ORDER


Plaintiff's action, brought under to 42 U.S.C. § 405(g) and 42 U.S.C. § 1383(c)(3), seeks judicial review of the decision of the Commissioner of Social Security denying plaintiff's claim for a period of disability and disability insurance benefits under the Social Security Act.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C), by order of referral entered May 23, 2008, for report and recommendation. Magistrate Judge Tommy Miller filed a report on January 15, 2009, recommending that the Commissioner's decision be affirmed.

By copy of the report, each party was advised of the right to file written objections to the findings and recommendations made by the magistrate judge. The court received plaintiff's objections to Magistrate's Report and Recommendation on January 28, 2009. Defendant has not filed a response to plaintiff's objections, and the time in which to do so has passed.

The court, having examined the objections to the Magistrate Judge's Report, and having made de novo findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the Report of the United States Magistrate Judge filed January 15, 2009. Accordingly, plaintiff's motion for summary judgment is **DENIED**, defendant's motion for summary judgment is **GRANTED**. The Clerk shall enter judgment in favor of defendant.

The Clerk shall forward a copy of this Final Order to counsel for the parties.

/s/
Rebecca Beach Smith
United States District Judge 

REBECCA BEACH SMITH
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
February 19, 2009